IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3000 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MULTIMEDIA FRONTIERS LTD. - Petitioner(s)
Versus
V.M.PRINT TRADE SUPPLIES THR' ITS PARTNER - Respondent(s)

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Appearance :
MR NAVIN K PAHWA for Petitioner(s) : 1,
MR PRANAV M RAVAL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 23/03/2007

ORAL JUDGMENT

In this petition, the petitioner, original-defendant, has challenged an ex-parte decree dated 28.12.2005 passed by the Trial Court in Summary Suit No.49/03. By the said order, the Trial Court was

pleased to direct the petitioner-herein to pay a sum of Rs.3,85,064/- to the respondent, original-plaintiff with 6 per cent simple interest from the date of the suit till payment.

2. It is not in dispute that summons in the summary suit was duly served on the petitioner. The petitioner in fact engaged an advocate to defend the suit. It is the case of the petitioner that initially time was sought on behalf of the petitioner by its learned advocate. Subsequently, the learned advocate for the petitioner did not participate in the proceedings and the Trial Court was pleased to pass order in absence of any participation of the petitioner. It may be noted that no reply has been filed on behalf of the petitioner. It is the case of the petitioner that for some time negotiations were going on between the parties. Be that as it may, it cannot be denied that the petitioner was not vigilant enough in pursuing its defence. In that view of the matter, the learned Judge was not entirely unjustified in proceeding further with the summary suit. However, the petitioner cannot be saddled with the entire decree and I find that the petitioner deserves to be given one more chance to defend the case. But the same cannot be unconditional.

3. In the circumstances, the impugned order dated 28.12.2005 is set aside. It is provided that the petitioner shall pay cost of Rs.10,000/- (Ten thousand) to the respondent within a period of four

weeks from today. Only upon fulfilling this condition, the summary suit shall stand restored. Upon the petitioner paying such cost, summary suit shall stand restored and the petitioner shall forthwith file its reply before the Trial Court.

4. With the above directions, the petition is disposed of. Rule is made absolute. Interim relief granted earlier is vacated.

(Akil Kureshi,J.)

(vjn)